

Atty. Docket No. 60,152-1051

REMARKS

This Amendment is responsive to the Patent Office Action mailed June 17, 2005. First, the Applicant would like to thank Examiner Bryant for his allowance of claims 23 to 31 and his indication of allowability of dependent claims 8 and 9 if rewritten in independent form.

The Applicant respectfully submits that new claim 32 patentably distinguishes over the prior art for the reasons set forth below and claims 7, 8 and 9 have been amended and made dependent upon claim 32. Claim 7 *as filed* was rejected by the Examiner as unpatentable over U.S. Patent No. 4,507,859 of *Shinjo* in view of the disclosure of U.S. Patent No. 5,072,518 of *Scott*. In this rejection, the Examiner states on page 5 that the retainer 126 of the *Scott* patent "maintains the sensor away from contact with fasteners 116 as they are delivered from the feed passage 120 to the plunger passage," citing column 6, lines 62 to 68, of the *Scott* patent. The Applicant respectfully traverses this finding. First, as shown in Figures 1 and 2, the fasteners 116 are fed through the chute 120 into the feed passage 118 and *against the sensor* of the proximity probe 124. Thus, the Applicant respectfully submits that the retainer 126 *does not* prevent contact of the fasteners 116 with the sensor of the proximity probe. However, new claim 32 now specifically recites that the feed passage includes "opposed side walls"; the plunger passage intersects with the feed passage; and the sensor of the proximity probe is "one of said side walls of said feed passage at an intersection with said plunger passage sensing a presence of a fastener in said plunger passage without said fastener contacting said sensor of said proximity probe." Thus, the Applicant respectfully submits that claim 32 patentably defines over the proximity probe disclosed in the *Scott* patent. It should also be noted that the *Scott* patent is assigned to the predecessor in interest of the assignee of this application and that the location of the proximity probe in the side wall of the feed passage opposite the plunger passage avoids the problems associated with a proximity probe located opposite the feed passage as disclosed in the

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Scott patent as set forth in the specification of this application, including damage to the sensor, collection of debris interfering with the sensor of the proximity probe, etc.

The Applicant further requests reconsideration of the species restriction requirement *based upon the allowance of generic claim 23*. Claims 1, 2, 6, 10, 12, 14, 15 and 19 were rejected as anticipated by U.S. Patent No. 4,507,859 of *Shinjo* under 35 U.S.C. § 102(b) and claims 11 and 18 were rejected as unpatentable over the disclosure of the *Shinjo* patent under 35 U.S.C. § 103(a). At the time this application was filed, the Applicant was not aware of the *Shinjo* patent. In response to this rejection, claims 1 to 4, 6 and 10 to 22 have been cancelled.

However, allowed claim 23 is generic to both of the embodiments of the plunger assembly, including dependent claim 25 which is also generic to both embodiments, claim 27 is specific to the embodiment of the plunger assembly shown in Figures 7 and 8. New claim 33 is now specific to the embodiment of the plunger assembly shown in Figures 7 and 8, wherein the fixed member includes "at least two openings each having an end wall," and wherein the plunger assembly includes "at least two separate parallel plungers each having a body portion configured to be closely received in said openings in said fixed member and a plunger portion projecting from said fixed member each having an end face." The Applicant respectfully submits that claim 32 patentably distinguishes over the *Shinjo* patent and is one of the preferred embodiments of the fastener installation head of this invention. As set forth in the specification of this application, the plungers are subject to damage or wear and the use of two separate plungers permits the replacement of one of the plungers in the event of damage or wear. In the disclosed embodiment, the plungers 122 each include a body portion 124 closely received in parallel openings 128 in the fixed member 130 firmly retaining the plungers in parallel relation while permitting easy replacement of the plungers. The Applicant therefore respectfully requests reconsideration of the restriction requirement and allowance of claim 33.

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Although it is believed that no fee is due for the filing of this Amendment, the Commissioner is authorized to charge our Deposit Account No. 08-2789 for any additional fees or credit the account for any overpayments regarding this Amendment.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, P.C.

July 15, 2005

Date

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the attached Amendment is being facsimile transmitted to Examiner David P. Bryant, U.S. Patent and Trademark Office, at facsimile number (571) 273-8300 on July 15, 2005.

Tracy L. Smith
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